

APPLICANT:
N.A.D.D. Patel, LLC

REQUEST: Special development to permit
a new structure for retail, service and office
uses in the Residential Office District

HEARING DATE: April 23, 2008

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5638

ZONING HEARING EXAMINER'S DECISION

APPLICANT: N.A.D.D. Patel, LLC

LOCATION: 1615 East Churchville Road, Bel Air
Tax Map: 41 / Grid: 4E / Parcel: 560
Third (3rd) Election District

ZONING: RO / Residential Office District

REQUEST: Special development, pursuant to Section 267-47.1 of the Harford County Code,
to permit a new structure for retail, service and office uses in the RO/Residential
Office District.

TESTIMONY AND EVIDENCE OF RECORD:

The subject property is a one (1) acre, currently vacant, RO/Residential Office zoned parcel, located close to the southeasterly corner of the MD Routes 22 and 543 intersection in Fountain Green. Across Route 22 from the subject property is a Slavia Federal Savings Bank; to the west is a small residential dwelling and a rather large parcel on which is located the Mt. Zion United Methodist Church; to the south is a small environmentally sensitive area which contains a stream and mature trees; and to the east is a Royal Farm Store which is undergoing a major expansion. The property to the west is zoned B2; the properties to the east and south are zoned R2; and the property across MD Route 22 is zoned RO.

The Applicant proposes to construct two (2), two-story buildings on the subject property, each being approximately 8,000 square feet in size. The buildings will be used for professional offices. In order to develop the property for such uses, the Applicant needs, and requests herein, special development approval pursuant to Section 267-47.1 of the Harford County Code.

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First for the Applicant testified Paul Thompson, owner and principal of Architectural Design Works. Mr. Thompson was offered and accepted as an expert in site planning and design. The witness described the subject parcel as lying in an area of mixed commercial and residential uses. The residential subdivision of Amyclae East lies across MD Route 22 from the subject property, behind Slavie Federal Savings Bank, also located on the north side of MD Route 22. The church property to the east is a significantly sized parcel owned by Mt. Zion United Methodist Church located to the east. The Royal Farm Store located directly at the southeasterly intersection of MD Routes 22 and 543 is undergoing a significant conversion to a large gas and convenience store facility.

Mr. Thompson described the present proposal, as shown on the site plan, as being somewhat modified from that which was originally submitted to the Department of Planning and Zoning. These modifications were done in order to meet the Department's concerns regarding the scale of the project. Mr. Thompson accordingly modified the original site plan to show the two buildings, each having approximately 8,000 square feet, with one set back from MD Route 22. Mr. Thompson believes that such a design breaks up the scale and massiveness of the project, and makes the proposed buildings more compatible with other facilities in the area. By maintaining this additional setback Mr. Thompson believes the streetscape is now somewhat broken up, making for a more attractive project.

Each of the two buildings will be contain 7,954 square feet of interior floor space. The buildings are designed for office and professional service uses. Mr. Thompson understands there will be no retail use made of the facilities. Mr. Thompson also noted that the proposed improvements are, in fact, smaller than Slavie Federal Savings Bank building directly across the street, which is also located on a RO zoned parcel. The Slavie Bank building is about 27,000 square feet in size. Compared to the other commercial buildings at the intersection along MD Route 22 the proposed buildings will have a modest appearance, well in keeping with the general streetscape and the residential structures in the area. Mr. Thompson illustrated his opinions by use of Applicant's Exhibit No. 6, which shows the elevations of the proposed buildings from MD Route 22.

The proposed buildings on the site will have roof pitches, will be of construction materials, and have exterior treatments and other design elements which are similar to the residential structures in the neighborhood. The fact that the buildings are two stories in height also makes them more in keeping with similar residences in the area than to existing commercial uses. All sides of the buildings will be of finished materials.

Mr. Thompson believes the proposal meets all design requirements of the Harford County Developmental Regulations, including all required setback and height limitations. The project meets the maximum building coverage requirement, having an actual building coverage of only 18%, and a maximum impervious surface coverage of only 52%. Six (6) foot high vegetative screening is proposed along the easterly property line (that property line is in common with the residentially used lot). Buffering exists or will be provided along the other property lines, particularly the southerly property line, which adjoins the R2 zoned, presently vacant, property.

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Lighting will be designed to have no impact on surrounding uses and surrounding properties, with spillage of light controlled or eliminated. According to Mr. Thompson, the Applicant will comply with all conditions suggested by the Department of Planning and Zoning.

Next for the Applicant testified Edward Steere, employed by Frederick Ward & Associates, Inc. Mr. Steere, who is a professional land planner, was familiar with the subject property and with the proposed site plan. In truth, said Mr. Steere, this neighborhood is not residential in character. It has become a commercial district due to the improvements at and surrounding the MD Routes 543 and 22 intersection. It is much more a business area than residential.

The proposed buildings are, however, compatible with the surrounding communities within the area. The use of the subject property will be a good transition between the B2 zoning of the Royal Farms property, and the residential and church uses to the west and south.

Mr. Steere addressed Section 267-9I, "Limitations, Guides and Standards" and found the proposal to be in compliance with all such factors. He finds no adverse impact.

Next for the Applicant testified Mark Keeley, a transportation planner with Traffic Concepts, Inc. For the Applicant Mr. Keeley prepared a traffic impact study. According to his study, prepared with instruction and input from the Department of Planning and Zoning, all studied intersections will operate at acceptable levels of service, with both expected development and proposed traffic flow from the proposed use calculated, with one exception. That exception is the Thomas Run Road / MD Route 22 intersection which, as it is located outside of the development envelope, will operate at a level of service that is not acceptable. As a result, the Applicant will be required to mitigate the traffic impact, which it will do by proposing an additional right turn / westbound lane from Schucks Road north onto MD Route 22.

Mr. Keeley generally described the proposed uses on the subject property as ones which would be of a very low traffic generating nature. The uses as proposed by the Applicant typically generate few traffic trips, compared to retail or other service uses. Mr. Keeley finds no adverse impact on existing or future traffic patterns in the area.

Next testified Anthony McClune, Deputy Director, for the Harford County Department of Planning and Zoning. Mr. McClune commented that the revised site plan prepared by the Applicant does not change the Department's opinions and conclusions in the Staff Report, which are favorable.

According to Mr. McClune, the use is a permitted one as a special exception under the Harford County Developmental Regulations, provided that all applicable conditions are met. The proposal is compatible with surrounding uses, and is to be constructed on an appropriate scale. The uses and materials to be used in the structures are also found to be compatible with those surrounding uses. Mr. McClune and the Department believe that the vegetative screen proposed by the Applicant will be adequate. The property contains significant natural screening on the south side due to the existing sensitive environmental features at that location. Significant screening is not necessary on the Royal Farm store side. The Applicant has proposed substantial screening on the east side, with appropriate screening along MD Route 22.

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All conditions of Section 267-9I are met, and the use will have no adverse impact on surrounding properties or property users. Mr. McClune further agreed that the use of this RO zoned property will be a good transition between B2 zoning to the west and residential zoned property to the south and east, particularly in light of the institutional use of that property to the east.

No testimony or evidence was presented in opposition.

APPLICABLE LAW:

Section 267-47.1 of the Harford County Code states:

- “A. *Purpose. To provide opportunities for conversation of existing residential structures or the development of new structures for retail, service and office uses in predominantly residential areas. The purposes of these development standards are to ensure that the structures and uses developed are compatible and in harmony with the neighboring residential communities.*
- B. *Development standards.*
 - (1) *Design. An architectural rendering of the building facade and elevation of the structure shall be submitted to the Board. The rendering shall demonstrate how the project meets the following standards and objectives:*
 - (a) *Redevelopment of existing residential structures. Redevelopment of existing residential structures shall be permitted provided that any physical modification is compatible and in harmony with the neighboring residential communities relative to architectural design, scale, building height and materials used in construction.*
 - (b) *Development of new buildings. New buildings developed for retail, service and office uses shall be designed to be compatible and in harmony with the neighboring residential communities relative to architectural design, scale building height and the materials used in construction. Elements to be considered in determining compatibility with neighboring residential communities shall include massing and building materials as well as cornice lines, window lines, roof pitch and entry.*
 - (c) *Design requirements. See Design Table VIIA.*

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- (2) *Maximum building coverage. The maximum building coverage shall be 40% of the lot, and the maximum impervious surface shall be 65% of the lot.*
- (3) *Use limitations. The uses permitted under this section shall comply with the following:*
 - (a) *Enclosed building. All uses permitted shall be conducted within an enclosed building, except parking, loading, unloading or as otherwise permitted.*
 - (b) *Storage restriction. The outside storage of material or equipment shall not be permitted.*
 - (c) *Screening requirements. Parking, loading, unloading or other outdoor activity shall be screened from adjacent residential lots. Screening shall consist of landscaping, walls or solid fencing at least 6 feet high which shall be continuous to prevent visibility of the area.*
 - (d) *Hours of operation. Uses shall only be permitted to operate between the hours of 6:00 a.m. and 10:00 p.m., inclusive.*
- (4) *Landscaping. The landscaping shall, to the extent possible, preserve unique features and mature vegetation, especially large trees. Lawn and landscaped areas shall be maintained to preserve the residential character of the area. Landscaped buffer yards shall be planted in harmony with adjoining residences and in accordance with Section 267-28 of this chapter. A landscaping plan shall be submitted to the Board for review and approval.*
- (5) *Outside lighting. Outside lighting shall be so shaded, shielded, directed or maintained so that the lighting does not cause a glare or reflection on adjacent residential lots.*
- (6) *Ingress and egress. Any ingress or egress to the site shall be designed to provide the safest means of traffic flow.”*

Section 267-9I, Limitations, Guides and Standards is also applicable to this request and will be discussed in further detail below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant proposes what can only be described as two attractive buildings, modestly scaled, to be used for professional services on this one acre, RO Residential Office zoned parcel. The subject property itself is located within the intensely traveled intersection of MD Routes 22 and 543. To its west, is a Royal Farm store parcel located directly at the intersection and zoned B2; to the south and east of the subject property are parcels zoned R2, with at least one parcel containing an institutional use. Accordingly, RO zoning for the subject property is an appropriate zoning classification in this area of mixed zones and uses, and will help moderate the impact of the more intensely used commercial parcels from the surrounding residential and institutional uses.

The Applicant complies with all applicable general and specific Code requirements and, with modest conditions suggested herein, it is easily found that the proposed special development should be approved.

The Applicant must, of course, initially comply with the specific requirements of Section 267-47.1 discussed as follows:

“A. *Purpose. To provide opportunities for conversation of existing residential structures or the development of new structures for retail, service and office uses in predominantly residential areas. The purposes of these development standards are to ensure that the structures and uses developed are compatible and in harmony with the neighboring residential communities.*

It is found that the well-designed and architecturally distinctive, approximately 8,000 square foot buildings to be constructed on the subject property are compatible with the neighborhood, which is a mixed commercial/residential/institutional use area. It is quite apparent the Applicant took into account the initial comments of the Department of Planning and Zoning, and made efforts to mitigate the scale and impact of the design.

B. *Development standards.*

(1) *Design. An architectural rendering of the building facade and elevation of the structure shall be submitted to the Board. The rendering shall demonstrate how the project meets the following standards and objectives:*

Architectural renderings have been submitted.

- (a) *Redevelopment of existing residential structures. Redevelopment of existing residential structures shall be permitted provided that any physical modification is compatible and in harmony with the neighboring residential communities relative to architectural design, scale, building height and materials used in construction.*

The Applicant is proposing new structures and, accordingly, this subsection is not applicable.

- (b) *Development of new buildings. New buildings developed for retail, service and office uses shall be designed to be compatible and in harmony with the neighboring residential communities relative to architectural design, scale building height and the materials used in construction. Elements to be considered in determining compatibility with neighboring residential communities shall include massing and building materials as well as cornice lines, window lines, roof pitch and entry.*

As noted above, the two proposed, two story buildings, each containing approximately 8,000 square feet of interior space, will be consistent with the surrounding neighborhood, including its residential components, in both scale, design, building height and materials.

- (c) *Design requirements. See Design Table VIIA.*

These design requirements are met.

- (2) *Maximum building coverage. The maximum building coverage shall be 40% of the lot, and the maximum impervious surface shall be 65% of the lot.*

Applicable building coverage and impervious surface coverage will be met.

- (3) *Use limitations. The uses permitted under this section shall comply with the following:*
 - (a) *Enclosed building. All uses permitted shall be conducted within an enclosed building, except parking, loading, unloading or as otherwise permitted.*

All uses but parking will be conducted within the buildings.

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- (b) *Storage restriction. The outside storage of material or equipment shall not be permitted.*

There will be no outside storage.

- (c) *Screening requirements. Parking, loading, unloading or other outdoor activity shall be screened from adjacent residential lots. Screening shall consist of landscaping, walls or solid fencing at least 6 feet high which shall be continuous to prevent visibility of the area.*

The Applicant will install either landscaping or solid fencing at least 6 feet tall along the adjacent residential lots to the east so as to fully screen all parking area from the view of adjacent residential lots. The Applicant shall further be required to submit a landscaping plan to the Department of Planning and Zoning, detailing other appropriate landscaping.

- (d) *Hours of operation. Uses shall only be permitted to operate between the hours of 6:00 a.m. and 10:00 p.m., inclusive.*

The hours of operation will be from 6:00 a.m. to 10:00 p.m.

- (4) *Landscaping. The landscaping shall, to the extent possible, preserve unique features and mature vegetation, especially large trees. Lawn and landscaped areas shall be maintained to preserve the residential character of the area. Landscaped buffer yards shall be planted in harmony with adjoining residences and in accordance with Section 267-28 of this chapter. A landscaping plan shall be submitted to the Board for review and approval.*

As noted above, the Applicant shall fully screen the easterly property line. Additional vegetative planting shall be installed along MD Route 22 and along the westerly line which adjoins the Royal Farm Store property. The Department of Planning and Zoning shall approve the landscaping along both MD Route 22 and the Royal Farm Store. The Applicant shall make all efforts to maintain the existing natural screening along the southerly property line.

- (5) *Outside lighting. Outside lighting shall be so shaded, shielded, directed or maintained so that the lighting does not cause a glare or reflection on adjacent residential lots.*

The Applicant has indicated that lighting will be adjusted so as to cause no impact to adjoining residential lots. This shall be a required condition of approval.

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- (6) *Ingress and egress. Any ingress or egress to the site shall be designed to provide the safest means of traffic flow.”*

A State Highway Administration permit will be required for approval. Ingress and egress shown on the Applicant’s site plan appear to be a safe means of traffic access.

Accordingly, it can be seen that the Applicant complies with all applicable requirements to the special development request.

The Applicant must, however, also show that this use will not cause an adverse impact as judged in light of more generalized standards of Section 267-9I, Limitations, Guides and Standards. It is herein found, as discussed below, that the Applicant’s use will not cause such an adverse impact:

- (1) *The number of persons living or working in the immediate area.*

The property is located within the development envelope. It is in conformity with the Harford County Master Lane Use Plan. The testimony of Mr. Keely, traffic engineer, was that the proposed professional services uses within this office project will generally have low traffic volumes and impact, particularly on weekends. Accordingly, it is found that there will be no impact on the number of persons living or working in the immediate area.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The property fronts on a heavily used, State maintained, arterial road close to a major County intersection. Traffic access will be adequate and will be reviewed and controlled by the State Highway Administration. There is no finding of adverse impact on traffic conditions.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

The use is consistent with other uses in the area with the Harford County Master Land Use Plan.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

There will be no identifiable impact by any of these possible emissions.

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- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

The Harford County Sheriff's Office will provide police protection. The local fire departments will provide fire protection. The property will be served by public water and sewer.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is permitted in the RO/Residential Office District as a special development. As such, it is considered to be a principle permitted use, provided applicable conditions are met.

- (7) *The structures in the vicinity, such as schools, houses or worship, theaters, hospitals, and similar places of public use.*

The buildings of the Mt. Zion United Methodist Church are located close to subject property to the east. There is no evidence that the proposed use would have any impact on those facilities.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The request is consistent with the Harford County Master Land Use Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

A sensitive natural feature has been identified on the residentially zoned property to the south of the subject property. However, there can be no finding of any adverse impact on that sensitive environmental feature. There can be no finding of any adverse impact on opportunities for recreation and open space in the area.

- (10) *The preservation of cultural and historic landmarks.*

No such landmarks have been identified.

Accordingly, as the proposal is fully comply with all applicable standards, and will have no adverse impact on the adjoining properties or on the neighborhood, it should be approved. The proposed use, constructed and operated as conditioned by the Development Regulations and by the conditions in this decision, will have no greater impact at the proposed location than it would at any other location within the zone.

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CONCLUSION:

Accordingly, the requested special development shall be approved, subject to the following conditions:

1. There shall be no outside storage.
2. Any dumpsters placed on the subject property will be on westerly or southerly property line and may not abut the residential dwelling to the east.
3. Solid fencing or landscaping at least 6 feet high shall be installed along the easterly property line, adjacent to the adjoining residential lot so as to fully screen all parking areas from view of the adjacent residential lot.
4. The Applicant shall submit a detailed site plan to be reviewed and approved through the Development Advisory Committee (DAC).
5. The Applicant shall obtain all necessary permits and inspections for the construction of the building and the development of the site.
6. The Applicant shall submit a detailed landscaping and lighting plan to the Department of Planning and Zoning for review and approval with the site plan. Lighting will be designed so as not to spill onto adjoining properties.
7. All building and freestanding signs shall meet the requirements of the Sign Code. A rendering of all proposed signs shall be included with the site plan.
8. The hours of operation will be from 6:00 a.m. to 10:00 p.m. only.
9. The Applicant shall submit a detailed lighting plan to the Department of Planning and Zoning for review and approval. The Applicant shall adjust the lighting so as to not 'spill' onto or cause a nuisance to adjoining residential lots.

Date: May 23, 2008

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on JUNE 23, 2008.